

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1344 OF 1996

Dr.(Mrs.)Ashalata Dyaneshwar Khare ...Petitioner

Versus

Mr.K.T.Khandangale & Anr. ...Respondents

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Mr.Mohan Pungalia for Petitioner.

None for Respondent No.1.

Mr.K.V.Saste, A.P.P. for Respondent No.2.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 25, 2005.

P.C.

1. By this Petition, it is prayed that criminal case launched by the Respondent No.1 against the Petitioner in the Court of Special Judge, being CC No.7/Misc./95 for offence under Section 3(1) (viii) and (ix) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'Act'), be quashed. The said compliant has been filed by the Respondent No.1 alleging that the

Petitioner gave false or frivolous information to Sangaria Police Officers, who, in the course of investigation of that case, had interrogated the Respondent No.1, causing injury or annoyance to him, who is a member of the Scheduled Tribe from Maharashtra. It is unnecessary to advert to all the events stated in the complaint. Suffice it to observe that the substance of the allegation can be discerned from Paragraphs 19 and 20 of the complaint, which reads thus:

"19. I submit that I belong to the Scheduled Tribe of Maharashtra. I further submit that the Accused had intentionally filed false or malicious prosecution against me by giving false or frivolous information to the Sangaria Police Officers that I was present along with one other person at Sangaria on 29th December, 1991, that she had seen me and the other person commit certain averments in her house in relation to her person and property, and thereby caused such public servants to use, their lawful position in to cause injury or annoyance to me, in as much as the Accused intended that the Police should arrest me and take me into custody and charge-sheet me in the Sangaria Court.

20. I submit that, as stated hereinabove, I am a Professor in Economics, serving in the Ismail Yusuf College at Jogeshwari. I say that the Sangaria Police Officers had taken me with themselves to the said College as well as to the S.N.D.T. Women's University, Bombay, and had made enquiries with the authorities therein

about my alibi, I say that the said acts on the part of the Sangaria Police Officers at the instance of the present Accused had caused me serious injury and annoyance within the meaning of Sec.3(1)(ix) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and as such, the Accused has committed an offence and rendered herself liable for punishment for the same. I further submit that after making the necessary enquiries with me and the authorities of the Ismail Yusuf College and the S.N.D.T. Women's University and Verifying their records, the Sangaria Police Officers were not only satisfied about the truth of my alibi, but that the complaint against me of my alleged involvement in the alleged incident of 29th December, 1991 at Sangaria was absolutely false. This is further clear from the fact that the Sangaria Police has since arrested a local resident by name Surendra Chhinda on a charge under sec.307 I.P.C. and registered a crime against him, and that after investigation, the Sangaria Police has submitted a charge-sheet against the said Surendra Chhinda in the Court of the learned Addl.Chief Judicial Magistrate, Sangaria, who has taken cognizance thereof in Case No.123/S of 1993."

2. Even if the complaint as filed by the Respondent No.1 is to be read as a whole, there is no averment in the complaint that the Respondent No.1 had told the Petitioner that he belongs to Scheduled Tribe Community. Besides, there is no averment or allegation that the criminal case filed by the Petitioner against Respondent No.1 was because the Respondent No.1 belonged to Scheduled

Tribe Community, so as to harass him or cause him injury or annoyance, as member of the Scheduled Tribe. Indeed, in Para 19, it is stated that the complainant belongs to Scheduled Tribe of Maharashtra, but as mentioned earlier, there is no allegation or even remote suggestion made in the entire complaint that the criminal case filed by the Petitioner against the Respondent No.1 registered with Sangaria Police Station in Rajasthan was because the Respondent No.1 belonged to Scheduled Tribe Community and so as to cause him injury or annoyance on that account. If it is so, neither case under clause (viii) or clause (ix) of Section 3(1) of the Act is made out in the complaint as filed.

3. Besides, I find substance in the grievance made by the Petitioner that the present complaint has been filed as counterblast to the Writ Petitions filed by the Petitioner in this Court praying for quashing of other two criminal actions filed by Respondent No.1 against the Petitioner, being false and frivolous. The subject complaint is filed in January 1994 during the pendency of those Writ Petitions. The said Writ Petitions were filed in

the year 1991 and 1992 respectively, in which, this Court stayed the further proceedings pending against the Petitioner in the criminal cases

instituted by the Respondent No.1. Those Petitions have been subsequently allowed on March 16, 1999 for the reasons recorded in the order passed by this Court, more particularly, in Paragraph 9 thereof. This Court has concluded that the Respondent No.1 has resorted to mean tactics and filed false and frivolous cases against the Petitioner herein. That reason squarely applies even in the present criminal action launched by the Respondent No.1. In other words, the criminal action launched by Respondent No.1 is out of vengeance and only to unduly harass the Petitioner. Accordingly, this Petition succeeds in terms of prayer clause (a). Ordered accordingly.

A.M.KHANWILKAR, J.